

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in view of the present amendment and in light of the following discussion, is respectfully requested.

Claims 1 and 4-7 are pending. By the present amendment, Claim 1 is amended. Support for the present amendment can be found in the original specification, for example, at page 6, line 13 to page 7, line 1. Thus, it is respectfully submitted that no new matter is added.

In the outstanding Office Action, Claims 1 and 4-6 were rejected under 35 U.S.C. § 103(a) as unpatentable over Komatsu et al. (U.S. Patent No. 3,930,041, hereinafter “Komatsu”) in view of Ando (U.S. Patent No. 3,892,874).

This amendment is submitted in accordance with 37 C.F.R. §1.116 which, after final rejection, permits entering of amendments canceling claims, complying with any requirement of form expressly set forth in a previous Office Action, or presenting rejected claims in better form for consideration on appeal. The present amendment amends Claim 1 to be in better form for consideration on appeal. It is respectfully submitted that no new matter has been added, and this amendment does not raise new issues requiring further consideration and/or search. It is therefore respectfully requested that the present amendment be entered under 37 C.F.R. §1.116.

In response to the outstanding rejection of Claims 1 and 4-6 under 35 U.S.C. § 103(a), this rejection is respectfully traversed as discussed below.

Amended Claim 1 recites:

A method for manufacturing frozen or refrigerated half-boiled noodles, comprising the steps of:

boiling a measured quantity of beta noodles into a half-boiled state, in which a moisture content of the half-boiled noodles is within a range of 45 to 60 percent as a whole, until outside surfaces of the beta noodles are processed into an outer alpha layer;

packing the half-boiled noodles, immediately after the boiling the noodles, in a sealed container comprising a food bag made of synthetic resin to hold the half-boiled noodles in a hermetically sealed condition to bring the sealed container into a substantially saturated steamy condition;

slow-cooling the sealed noodles to permeate moisture from the outer alpha layer of the half-boiled noodles into an inside beta part of the half-boiled noodles and to equalize a moisture content; and

preserving the slow-cooled noodles in freezing or refrigerative storage.

The method for manufacturing frozen or refrigerated half-boiled noodles recited in Claim 1 includes holding the noodles in the hermetically sealed condition. This is not merely packaging of the half-boiled noodles, but is a process for permitting constant and appropriate moisture into the core of the noodle in a fixed low rate during the slow-cooling step. By this process, the various advantages described in the Summary of the Invention section beginning on page 3 of the original specification are obtained in the slow-cooling step. In particular, since the moisture content of the noodles is maintained at a low rate, there is no breakage of noodle texture due to frozen moisture during freezing, which allows freezing in refrigerative storage and refreezing storage of unfrozen noodles. In other words, half-boiled noodles of stable quality can be obtained. Additionally, since the moisture content is maintained in a low rate and held constant, a partial change in the quality of the noodles does not occur. Moreover, the moisture penetrated into the core of the noodles facilitates heat conductance throughout the noodles, so the noodles can be cooked in a short time. Furthermore, since the steam inside the food bag is absorbed by the noodles, the bag has little extra space inside, which is convenient for storage and transportation of the food bag.

Komatsu describes sealing half-cooked foods, including half-cooked noodles.<sup>1</sup> The outstanding Office Action does not state that Komatsu describes boiling the noodles such that the moisture content of the half-boiled noodles is within a range of 45-60%. Instead, the

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<sup>1</sup> See Komatsu, at column 8, lines 20-46.

Office Action, on pages 2 and 3, states that “one of the ordinary skill in the art would have been motivated to vary moisture content of half-boiled noodles based on the desired level of elasticity, degree of gelatinization, luster and uniformity.”

However, it is respectfully submitted that Komatsu does not disclose or suggest “boiling a measured quantity of beta noodles into a half-boiled state, in which a moisture content of the half-boiled noodles is within a range of 45 to 60 percent as a whole,” as recited in Claim 1.

Instead, Komatsu is silent with regard to the moisture content of the semi-cooked noodles. Further, the outstanding Office Action says that one of ordinary skill in the art would have been motivated to vary the moisture content of the half-boiled noodles based on the desired level of elasticity, degree of gelatinization, luster and uniformity, but does not cite any evidence in support of this assertion. As stated in M.P.E.P. § 2144.03, “[i]t is never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record, as the principle evidence upon which a rejection was based” (citing *In re Zurko*, 258 F.3d 1379, 1385, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001)). Additionally, it is respectfully submitted that Komatsu does not recognize that the moisture content is a result effective variable. See M.P.E.P. § 2144.05(II).

Ando describes a method of manufacturing instant cooking seasoned noodles in which raw noodles are produced by a conventional method, flavored, cut in a prescribed dimension, placed in a frame, and dehydrated by immersing the noodles in hot edible oil at a temperature of about 145°C.<sup>2</sup> The dehydrated hot noodles are then put into cup-shaped containers made of heat insulating materials, sealed, and then cooled. The noodles produced according to the method described in Ando are edible only by pouring hot water on them.<sup>3</sup> Thus, the packaged noodles have already been dehydrated. Accordingly, Ando does not

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<sup>2</sup> See Ando, at column 2, lines 28-41.

<sup>3</sup> See Ando, at column 3, lines 6-11.

describe or suggest “boiling a measured quantity of beta noodles into a half-boiled state, in which a moisture content of the half-boiled noodles is within a range of 45 to 60 percent as a whole,” as recited in Claim 1. Instead, as discussed above, the noodles described in Ando are dehydrated, thus, the moisture content is well below the claimed 45 to 60 percent range. Thus, Ando teaches away from having a moisture content of the noodles within a range of 45-60%.

The Office Action, at page 3, states that “[i]t is also noted that Komatsu teach that packaged article is naturally cooled while being transferred from heat-sealing step to the over-pressure cooling step.” However, it is noted that amended Claim 1 recites “packaging the half-boiled noodles, immediately after the boiling the noodles.” Thus, the natural cooling described in Komatsu cannot occur when the half-boiled noodles are packaged immediately after the noodles are boiled. Ando describes that “the noodles in the sealed container are passed into a cooling chamber to complete the production.”<sup>4</sup> As noted above, the noodles in Ando are already dehydrated. Thus, the cooling process described in Ando is not a slow cooling that allows moisture to permeate from the outer alpha layer of the half-boiled noodles into an inside beta part of the half-boiled noodles to equalize a moisture content therein.

Therefore, it is respectfully submitted that the combination of Komatsu and Ando does not disclose or suggest every feature recited in Claim 1. Thus, it is respectfully requested that the outstanding rejection of Claim 1, and Claims 4-6 which depend thereon, as unpatentable over Komatsu in view of Ando be withdrawn.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for allowance. A Notice of Allowance is earnestly solicited.

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<sup>4</sup> See Ando, at column 2, lines 49-51.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,

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